

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6694**

**BILL NUMBER:** HB 1404

**NOTE PREPARED:** Jan 9, 2006

**BILL AMENDED:**

**SUBJECT:** Securitization of Tobacco Settlement Payments.

**FIRST AUTHOR:** Rep. Espich

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Tobacco Settlement Corporation. The bill permits the Corporation to purchase up to 50% of the state's right to receive payments under the Tobacco Master Settlement Agreement and to issue bonds payable from those payments.

The bill provides for distribution of the bond proceeds to school corporations, state universities, and local units of government to reverse the effects of reductions of various distributions and appropriations in the 2001 budget.

It also authorizes certain Indiana financing authorities to enter into certain swap agreements with respect to the obligations that they issue.

**Effective Date:** Upon passage.

**Summary of Net State Impact:** *Securitization Proceeds:* This bill provides for the sale of the state's anticipated Tobacco Master Settlement Agreement income stream to the Tobacco Settlement Corporation. The Corporation would securitize any portion up to 50% of the income through the sale of bonds at a discount for a lump sum payment. A preliminary estimate is that the securitization of 50% of the revenue stream may raise between \$620 M and \$660 M in net proceeds in FY 2007. *[Note: This estimate may be updated as more current information becomes available.]* The amount of income to be securitized and the resulting lump sum payments would be dependent upon administrative decisions and market conditions. Proceeds from the sale of bonds not needed for the expenses of the Corporation, the issuance of bonds, and debt service would be deposited in the Tobacco Securitization Endowment Fund to be administered by the State Budget Agency.

*Distribution of Proceeds:* The bill appropriates maximum distributions of the securitization proceeds, subject to distribution by the State Budget Agency, at no greater than 1/12 of the distributions for tuition support; no greater than 1/12 of the appropriations to state universities, the Indiana Higher Education Telecommunications System, and the Commission for Higher Education made in HEA 1001-2003 for FY 2005; and no greater than 16.6% of the distribution from the Property Tax Replacement Fund to local units of government. The maximum distribution appropriated by the bill is estimated to be about \$792 M. The total amount of the distribution may be decreased subject to State Budget Agency repayments authorized in the current budget.

*Tobacco Settlement Corporation:* The bill establishes the Tobacco Settlement Corporation as a public body corporate and politic, separate from the state. The Board of Directors is to consist of the Governor, the Lieutenant Governor, the Treasurer, or their designees, and four members appointed by the Governor. The Governor serves as the chairperson, and the Lieutenant Governor serves as the vice-chairperson of the Corporation. The Corporation may employ independent counsel, bond counsel, financial advisors, investment bankers, auditors and other technical or professional assistants, agents, and employees. Employees of the Corporation are not employees of the state.

**Explanation of State Expenditures:** *Distribution of Proceeds:* The bill appropriates the proceeds from the sale of the bonds and specifies that they are to be transferred by the State Budget Agency to the state General Fund for one or more of the following purposes: (1) an amount equal to one-twelfth of the distributions for Tuition Support; (2) an amount equal to one-twelfth of the appropriations to the 7 state universities and other entities for university operating expenses; and (3) an amount equal to 16.6% of the total amount of Property Tax Replacement Fund scheduled to be distributed to county treasurers. The transfers, are to be made in the calendar year or fiscal year respectively, in which the proceeds of the bonds are received. As a point of reference, if the bonds were sold in the spring of 2007, the amounts that could be transferred for distribution in 2007 would be as follows: (1) CY 2007, Tuition Support, \$312 M; (2) FY 2007, Higher Education, \$112.8 M; and (3) CY 2007, Property Tax Replacement Fund, \$368 M. The total of these appropriations would be dependent upon actions taken by the State Budget Agency and the amount raised by the sale of the bonds, but up to \$792.9 M may be addressed by the bill. The provisions of the bill are effective upon passage. The FY 2006 Tobacco Master Settlement payment receipt is expected April 10, 2006, potentially after the effective date of the bill. For the purposes of this analysis, it is assumed that the securitization would not include the sale of the state's interest in the FY 2006 revenue.

The current budget bill (P.L. 246-2005) requires the State Budget Agency to repay up to ½ of the payment delays during the FY 2006-FY 2007 biennium if there are sufficient funds available. An early distribution of 50% of the tuition support payment delay balance will equal about \$156 M and an early distribution of 50% of the PTRC/HSC payment delay balance will equal about \$184 M, for a total estimated distribution of \$340 M at the full 50% amount. However, the Budget Agency may reduce the percentage that is to be repaid if there are insufficient balances to fund repayments of 50%. No additional payments have been made to date.

*Background:* The Auditor's year-end general ledger identified the June 30, 2005, balance of the Tobacco Master Settlement Agreement Fund to be \$192.7 M. The balance of money in the Fund that would be available for the FY 2006 and FY 2007 appropriations is dependent upon how the Budget Agency allots the FY 2006 appropriations. If the allotment is for less than the full FY 2006 appropriation for the accounts, then the actual expenditures for FY 2006 would be less than the total appropriation, and the ending balance available for expenditure in FY 2007 becomes larger. The Fund balance, estimated revenue for FY 2006 only (assuming 50% securitization in FY 2007), appropriations made in P.L. 246-2005, the amounts estimated to be available for appropriations in FY 2006 and FY 2007, and the estimated ending balances are provided in the following

table.

<b>Tobacco Master Settlement Agreement Fund</b>	<b>FY 2006</b>	<b>FY 2007</b>
Beginning Balance, July 1	\$ 192.7 M	\$ 138.9
Plus: Estimated Revenue, April 10 (2007) after securitization	\$ 132.1 M	\$ 67.0 M
Less: Appropriations (FY 2006 & FY 2007)	\$ 191.8 M	\$ 195.7 M
Plus: 7% required SBA reserve	\$ 5.9 M	\$ 0
Ending Balance, June 30	\$ 138.9	\$ 10.2 M

**Explanation of State Revenues:** *Sale of Revenue Stream:* The bill establishes the Tobacco Securitization Endowment Fund to receive bond proceeds from the securitization of a portion (up to 50%) of the Tobacco Master Settlement Agreement revenue. Net bond revenue is to be deposited in the Securitization Endowment Fund by the Tobacco Settlement Corporation. The Fund is to be held by the State Treasurer and administered by the State Budget Agency. Interest earnings from any investments of the Fund accrue to the Fund. Money in the Fund is nonreverting and subject to appropriation as specified in the bill. Any balance of funds remaining in the fund after the appropriations and transfers specified in the bill are subject to appropriation by the General Assembly. A preliminary estimate is that the securitization of 50% of the revenue stream may raise between \$620 M and \$660 M in net proceeds in FY 2007. The amount ultimately received will be dependent upon the percentage of the income stream securitized and the market conditions at the time of sale.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** State Budget Agency; Treasurer's Office; State Universities; and the Indiana Commission on Higher Education.

**Local Agencies Affected:** Local school corporations and local units of Government.

**Information Sources:** Auditor's General Ledger, Year-End Balance, June 30, 2005; Alice Wiegand, State Budget Agency; Indiana Public Finance Office.

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